

SENATE BILL No. 129

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-20.5-1; P.L.75-2000, SECTION 5.

Synopsis: Licensing of hypnotists. Provides for the state licensing of hypnotists instead of the state certification of hypnotists. Provides that a person who teaches hypnotism, as well as a person who practices hypnotism or trains others in self-hypnosis, must be a licensed hypnotist. Changes the state education requirements for hypnotists. Provides that an individual who practices hypnotism without a license commits a Class D felony. Increases the education prerequisite for licensing from 350 to 500 classroom hours of hypnotism education. Provides for the issuance of an injunction against a person who violates the hypnotist statutes. Repeals the definitions of "supervision" and "qualified supervisor". Amends an implementation provision allowing an individual to take the state hypnotist examination before July 1, 2005, even if the individual has not fully met the statutory education prerequisite. Provides that an individual who was certified as a hypnotist before May 15, 2001, shall be issued a hypnotist license without having to take another examination.

Effective: May 1, 2001 (retroactive); May 15, 2001.

Meeks R

January 8, 2001, read first time and referred to Committee on Health and Provider Services.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE BILL No. 129

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 25-20.5-1-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE MAY 15, 2001]: Sec. 5. As used in this
3 chapter, "hypnotist" means an individual who practices hypnotism,
4 **teaches an individual to become a hypnotist**, or trains an individual
5 in self-hypnosis.
6 SECTION 2. IC 25-20.5-1-7, AS AMENDED BY P.L.75-2000,
7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 MAY 15, 2001]: Sec. 7. (a) There is created a six (6) member Indiana
9 hypnotist committee to assist the board in carrying out this chapter
10 regarding the qualifications and examinations of hypnotists. The
11 committee is comprised of:
12 (1) three (3) hypnotists;
13 (2) one (1) physician licensed under IC 25-22.5;
14 (3) one (1) licensed psychologist who has received a health
15 service provider endorsement under IC 25-33-1-5.1; and
16 (4) one (1) individual who is a resident of Indiana and who is not
17 associated with hypnotism in any way, other than as a consumer.



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(b) The governor shall make each appointment for a term of three (3) years. Each hypnotist appointed must:

- (1) be a ~~certified~~ **licensed** hypnotist for at least three (3) years under this chapter;
- (2) have at least three (3) years experience in the actual practice of hypnotism immediately preceding appointment; and
- (3) be a resident of Indiana and actively engaged in the practice of hypnotism while a member of the committee.

(c) Not more than three (3) members of the committee may be from the same political party. A member of the committee is not required to be a member of a professional hypnosis association. However, no two (2) hypnotist members appointed to the committee may belong to the same professional hypnosis association.

(d) A member of the committee may be removed for cause by the governor.

(e) The board shall appoint a chairman from among the members of the committee.

SECTION 3. IC 25-20.5-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2001]: Sec. 9. (a) The committee shall:

- (1) judge the qualifications of hypnotists who apply for ~~certification;~~ **licensure;**
- (2) provide all examinations either directly or by delegation under subsection (c);
- (3) determine the applicants who successfully pass examinations;
- (4) ~~certify~~ **license** qualified applicants; and
- (5) propose rules concerning the competent practice of hypnotism to the board.

(b) The board shall adopt rules under IC 4-22-2, after considering the committee's proposed rules, establishing:

- (1) standards for the competent and ethical practice of hypnotism; and
- (2) fees and renewal fees for ~~certification;~~ **licensure.**

(c) The committee may approve and use the services of a testing company or an agent to prepare, conduct, and score examinations.

SECTION 4. IC 25-20.5-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2001]: Sec. 10. (a) An individual may not:

- (1) profess to be a hypnotist or hypnotherapist;
- (2) use the title "hypnotist" or "hypnotherapist"; or
- (3) use the prefix "hypno" with any word or use initials, words, letters, abbreviations, or insignia indicating or implying that the

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individual is a hypnotist ~~certified~~ **licensed** under this chapter;
unless the individual is ~~certified~~ **licensed** under this chapter.

(b) An individual who violates this section commits a Class B misdemeanor.

SECTION 5. IC 25-20.5-1-11, AS AMENDED BY P.L.75-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2001]: Sec. 11. (a) An individual who applies for a ~~certificate~~ **license** as a hypnotist must do the following:

(1) Present satisfactory evidence to the committee that the individual:

(A) does not have a conviction for a crime that has a direct bearing on the individual's ability to practice competently;

(B) has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice as a hypnotist without endangering the public; and

(C) has at least ~~three~~ **five** hundred ~~fifty~~ **(500)** ~~classroom~~ hours of hypnotism education from an Indiana school or program of hypnotism that is approved by the Indiana commission on proprietary education (referred to as "the commission" in this clause) under IC 20-1-19 or from any other state approved school or program that is found by the commission to have requirements as stringent as necessary for the commission's approval of an Indiana school or program of hypnotism. ~~including the following:~~

(i) ~~At least one hundred fifty (150) hours of supervised practice of hypnotism with a qualified supervisor, with not less than one (1) hour of personal supervision for every fifteen (15) hours of supervised practice.~~

(ii) ~~At least one~~ **The five** hundred ~~fifty~~ **(500)** hours of classroom instruction ~~in the practice of hypnotism. must be conducted by a licensed hypnotist.~~ A classroom hour may not be less than a fifty (50) minute period of instruction with both the instructor and student in attendance. Classroom instruction does not include video tape correspondence courses or other forms of electronic presentation.

(iii) ~~At least fifty (50) hours of video tape instruction in the practice of hypnotism. Video tape instruction may be used as a home study assignment.~~

(2) Pay the fee established by the board.

(b) An individual may not enroll in a school or program of hypnotism to satisfy the requirement under subsection (a)(1)(C) unless



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the individual:

- (1) is at least eighteen (18) years of age; and
- (2) has graduated from high school or received a:
 - (A) high school equivalency certificate; or
 - (B) state of Indiana general education development (GED) diploma under IC 20-10.1-12.1.

SECTION 6. IC 25-20.5-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2001]: Sec. 15. (a) The committee shall provide for examinations to be given at least two (2) times a year at times and places established by the committee.

(b) The committee shall provide for examinations that test an individual's knowledge of the basic and clinical sciences as the sciences relate to hypnotism, hypnotism theory and procedures, ethics, and other subjects the committee considers useful to test an individual's fitness to practice as a hypnotist.

(c) A qualified applicant who fails an examination and is refused a ~~certificate~~ **license** may take the next scheduled examination upon payment of an additional fee determined by the board.

SECTION 7. IC 25-20.5-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2001]: Sec. 16. The committee shall issue a ~~certificate~~ **license** to an individual who:

- (1) pays a fee;
- (2) achieves a passing score, as determined by the committee, on the examination provided under section 15 of this chapter;
- (3) has at least:
 - (A) graduated from high school;
 - (B) a high school equivalency certificate; or
 - (C) a state of Indiana general education developmental (GED) diploma under IC 20-10.1-12.1; and
- (4) is otherwise qualified under this chapter.

SECTION 8. IC 25-20.5-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2001]: Sec. 17. The committee may refuse to issue a ~~certificate~~ **license** to an individual if:

- (1) the individual has been disciplined by an administrative agency in another jurisdiction; and
- (2) the committee determines that the violation for which the individual was disciplined has a direct bearing on the individual's ability to practice as a hypnotist.

SECTION 9. IC 25-20.5-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2001]: Sec. 18. (a) A ~~certificate~~ **license** issued by the committee expires on a date established by the health professions bureau under IC 25-1-5-4 in the next even-numbered

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year following the year in which the ~~certificate~~ **license** was issued.

(b) An individual may renew a ~~certificate~~ license by paying a renewal fee on or before the expiration date of the ~~certificate~~. **license**.

(c) If an individual fails to pay a renewal fee on or before the expiration date of a ~~certificate~~, **license**, the ~~certificate~~ **license** becomes invalid.

SECTION 10. IC 25-20.5-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2001]: Sec. 19. (a) An individual who is ~~certified~~ **licensed** under this chapter shall notify the committee in writing when the individual retires from practice.

(b) Upon receipt of the notice, the committee shall do the following:

(1) Record the fact that the individual is retired.

(2) Release the individual from further payment of renewal fees.

SECTION 11. IC 25-20.5-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2001]: Sec. 20. (a) If an individual surrenders a ~~certificate~~ **license** to the committee, the committee may reinstate the ~~certificate~~ **license** upon written request by the individual.

(b) If the committee reinstates a ~~certificate~~, **license**, the committee may impose conditions on the ~~certificate~~ **license** appropriate to the reinstatement.

(c) An individual may not surrender a ~~certificate~~ **license** without written approval by the committee if a disciplinary proceeding under this chapter is pending against the individual.

SECTION 12. IC 25-20.5-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2001]: Sec. 21. The committee may issue a ~~certificate~~ **license** to an individual who has graduated as a hypnotist from an educational program in a foreign country if the individual meets the following conditions:

(1) Has graduated from an educational program approved by the committee.

(2) Does not have a conviction for any of the following:

(A) An act that would constitute a ground for a disciplinary sanction under IC 25-1-9.

(B) A crime that has a direct bearing on the individual's ability to practice competently.

(3) Has not been the subject of a disciplinary action initiated by a licensing agency of another state or jurisdiction on the ground that the individual was not able to practice as a hypnotist without endangering the public.

(4) Passes the examination required under this chapter.

(5) Pays a fee.

SECTION 13. IC 25-20.5-1-22 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE MAY 15, 2001]: Sec. 22. (a) Before providing hypnotism services, a ~~certified~~ **licensed** hypnotist shall disclose in writing to the individual to whom hypnotism services are provided the hypnotist's educational background in the field of hypnotism, including the following:

(1) Whether the hypnotist has a degree in hypnotism or a related field.

(2) The type of degree issued, the qualifications for the degree, and the institution that issued the degree.

(b) An individual who:

(1) violates subsection (a); or

(2) provides false information or documents under this section; commits a Class A infraction.

SECTION 14. IC 25-20.5-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2001]: Sec. 23. (a) Except as provided in section 1 of this chapter, an individual who is ~~certified~~ **licensed** under this article may not treat or perform a procedure on an individual for a medical, dental, or psychological problem without a referral from a licensed physician, psychologist, or dentist. Medical, dental, or psychological problems include:

(1) mental illnesses, including depression and phobias;

(2) addictions, including gambling;

(3) sexual disorders, including impotence and sexual aversion;

(4) preparation for a medical or dental procedure;

(5) pain and physical complaints, including headaches and nausea; and

(6) eating disorders, personality disorders, kleptomania, sleepwalking, and bedwetting.

The board may adopt rules under IC 4-22-2 to list specific medical, psychological, and dental problems that are included under this subsection.

(b) A referral is not required under this section to treat or perform a procedure on a person who desires to quit smoking or to lose weight.

(c) An individual who violates this section commits a Class A misdemeanor.

SECTION 15. IC 25-20.5-1-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2001]: **Sec. 25. (a) An individual may not practice hypnotism unless the individual is licensed or exempt from the requirement to be licensed under this chapter.**

(b) An individual who knowingly violates this section commits a Class D felony.



SECTION 16. IC 25-20.5-1-26 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2001 (RETROACTIVE)]: **Sec. 26. (a) If an individual violates this chapter, the attorney general, the committee, or the prosecuting attorney of the county in which an individual violates this chapter may maintain an action in the name of the state to enjoin the individual from continuing in violation of this chapter.**

(b) An individual who is enjoined and who violates the injunction shall be punished for contempt of court.

(c) An injunction issued under this section does not relieve an individual person from criminal prosecution but is in addition to any remedy provided under criminal law.

SECTION 17. THE FOLLOWING ARE REPEALED [EFFECTIVE MAY 15, 2001]: IC 25-20.5-1-12; IC 25-20.5-1-13.

SECTION 18. P.L.75-2000, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2001]: (a) ~~The governor shall~~ make the initial appointments to the Indiana hypnotist committee established by IC 25-20.5-1-7, as added by this act, before July 1, 1997.

~~(b) Notwithstanding IC 25-20.5-1-7, as added by this act, the initial terms of office of the members of the Indiana hypnotist committee are as follows:~~

~~(1) One (1) hypnotist member and the licensed psychologist member for terms of one (1) year:~~

~~(2) One (1) hypnotist member and the consumer member for terms of two (2) years:~~

~~(3) One (1) hypnotist member and the physician member for terms of three (3) years:~~

~~(c) Notwithstanding IC 25-20.5-1-7, as added by this act, an individual appointed to the Indiana hypnotist committee as a member under this SECTION does not need to be certified as a hypnotist. However, a hypnotist member must have completed at least three hundred (300) supervised classroom hours of hypnotism education from a school that is approved by the Indiana commission on proprietary education under IC 20-1-19 or by any other state that has requirements as stringent as required in Indiana. No two (2) hypnotist members appointed to the Indiana hypnotist committee may belong to the same professional hypnosis association (as defined by IC 25-20.5-1-6):~~

~~(d) Notwithstanding IC 25-20.5-1-15, as added by this act, an individual who applies for certification licensure to the Indiana hypnotist committee before January 1, 2005, may~~

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(1) be certified as a hypnotist without being required to take the examination if the individual has completed at least three hundred (300) supervised classroom hours of hypnotism education from a school that is approved by the Indiana commission on proprietary education under ~~IC 20-1-19~~ or by any other state that has requirements as stringent as required in Indiana; or

(2) take the examination, notwithstanding the individual's failure to meet the requirements of ~~IC 25-20.5-1-10(a)(1)(C)~~, **IC 25-20.5-1-11(a)(1)(C)**, as added by this act, **P.L.175-1997, SECTION 7**, if the individual meets the other requirements under ~~IC 25-20.5-1-10~~, **IC 25-20.5-1-11**, as added by this act, **P.L.175-1997, SECTION 7**, and has had at least ten (10) years of continued experience in hypnotism or has completed before July 1, 1997, a course in hypnotism from a state approved school that included less than three hundred (300) classroom hours.

~~(c)~~ (b) This SECTION expires July 1, 2005.

SECTION 18. [EFFECTIVE MAY 15, 2001] (a) If an individual was certified as a hypnotist on May 14, 2001, under IC 25-20.5-1, before its amendment by this act:

(1) the individual is deemed to be licensed as a hypnotist on May 15, 2001; and

(2) the Indiana hypnotist committee established by IC 25-20.5-1-7, as amended by this act, shall issue a license to the individual under IC 25-20.5-1-16, as amended by this act.

(b) If an individual:

(1) submitted an application before May 15, 2001, to become a certified hypnotist under IC 25-20.5-1, before its amendment by this act; and

(2) was not granted certification as a hypnotist before May 15, 2001;

the health professions bureau and the Indiana hypnotist committee shall allow the individual to submit a new application to be licensed as a hypnotist under IC 25-20.5-1, as amended by this act, and shall apply any application fees that were paid by the applicant before May 15, 2001, to the new application.

(c) This SECTION expires July 1, 2002.

SECTION 20. An emergency is declared for this act.

